

SENATE BILL No. 12

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20.6; IC 6-3.5; IC 35-41-1.

Synopsis: Credit for excessive property taxes. Allows a credit for excessive property taxes beginning in 2010 with respect to: (1) homesteads in the amount by which taxes exceed 1% of assessed value; (2) all other residential property in the amount by which taxes exceed 2% of assessed value; and (3) nonresidential real property and personal property in the amount by which taxes exceed 3% of assessed value. Specifies the extent to which land assessments are eligible for a credit. Repeals obsolete provisions. Makes conforming amendments.

Effective: January 1, 2009.

Kenley

November 20, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 12

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-20.6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 2.5. As used in this chapter, "nonresidential real property" refers to either of the following:**

(1) Real property that:

(A) is not:

(i) a homestead; or

(ii) residential property; and

(B) consists of:

(i) a building or other land improvement; and

(ii) the land, not exceeding the area of the building footprint or improvement footprint, on which the building or improvement is located.

(2) Undeveloped land in the amount of the remainder of:

(A) the area of a parcel; minus

(B) the area of the parcel that is part of:

(i) a homestead; or

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(ii) residential property.

SECTION 2. IC 6-1.1-20.6-4, AS AMENDED BY P.L.162-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. As used in this chapter, "qualified residential property" refers to any of the following that a county fiscal body specifically makes eligible for a credit under this chapter in an ordinance adopted under section 6 of this chapter and to all the following for purposes of section 6.5 of this chapter:

(1) An apartment complex;

(2) A homestead;

(3) Residential rental property;

real property that consists of either of the following:

(1) A single family dwelling that is not part of a homestead and the land, not exceeding one (1) acre, on which the dwelling is located.

(2) Real property that consists of:

(A) a building that includes two (2) or more dwelling units;

(B) any common areas shared by the dwelling units; and

(C) the land, not exceeding the area of the building footprint, on which the building is located.

SECTION 3. IC 6-1.1-20.6-7, AS AMENDED BY P.L.224-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. (a) In the case of a credit authorized under section 6 of this chapter or provided by section 6.5(a) or 6.5(b) of this chapter for property taxes first due and payable in a calendar year:

(1) A person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year **2009** attributable to

(A) the person's qualified residential property located in the county; in the case of a calendar year before 2008; or

(B) the person's homestead. (as defined in IC 6-1.1-20.9-1) property located in the county; in the case of a calendar year after 2007 and before 2010; and

(2) The amount of the credit is the amount by which the person's property tax liability attributable to

(A) the person's qualified residential property; in the case of a calendar year before 2008; or

(B) the person's homestead property; in the case of a calendar year after 2007 and before 2010;

for property taxes first due and payable in that calendar year **2009** exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the qualified residential property

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(in the case of a calendar year before 2008) or the person's homestead property (in the case of a calendar year after 2007 and before 2010) for property taxes first due and payable in that calendar year; 2009, as adjusted under subsection (c); (b).

(b) In the case of a credit provided by section 6.5(c) of this chapter for property taxes first due and payable in a calendar year:

(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's real property and personal property located in the county; and

(2) the amount of the credit is equal to the following:

(A) In the case of property tax liability attributable to the person's homestead property; the amount of the credit is the amount by which the person's property tax liability attributable to the person's homestead property for property taxes first due and payable in that calendar year exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the homestead property for property taxes first due and payable in that calendar year; as adjusted under subsection (c);

(B) In the case of property tax liability attributable to property other than homestead property; the amount of the credit is the amount by which the person's property tax liability attributable to the person's real property (other than homestead property) and personal property for property taxes first due and payable in that calendar year exceeds three percent (3%) of the gross assessed value that is the basis for determination of property taxes on the real property (other than homestead property) and personal property for property taxes first due and payable in that calendar year; as adjusted under subsection (c);

(c) (b) This subsection applies to property taxes first due and payable after December 31, 2007. The amount of a credit to which a person is entitled under subsection (a) or (b) in a county shall be adjusted as determined in STEP FIVE of the following STEPS:

STEP ONE: Determine the total amount of the person's property tax liability described in subsection (a)(1) or (b)(1) (as applicable) (a) that is for tuition support levy property taxes.

STEP TWO: Determine the total amount of the person's property tax liability described in subsection (a)(1) or (b)(1) (as applicable); (a).

STEP THREE: Determine the result of:

(A) the STEP TWO amount; minus

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(B) the STEP ONE amount.

STEP FOUR: Determine the result of:

(A) the STEP THREE amount; divided by

(B) the STEP TWO amount.

STEP FIVE: Multiply the credit to which the person is entitled under subsection (a) ~~or (b)~~ by the STEP FOUR amount.

Notwithstanding any other provision of this chapter, a school corporation's tuition support property tax levy collections may not be reduced because of a credit under this chapter.

SECTION 4. IC 6-1.1-20.6-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7.5. A person is entitled to a credit against the person's property tax liability for property taxes first due and payable after 2009. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:**

(1) homestead exceeds one percent (1%);

(2) residential property exceeds two percent (2%);

(3) nonresidential real property exceeds three percent (3%);

or

(4) personal property exceeds three percent (3%);

of the gross assessed value of the property that is the basis for determination of property taxes for that calendar year.

SECTION 5. IC 6-3.5-1.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. As used in this chapter:

"Adjusted gross income" has the same definition that the term is given in IC 6-3-1-3.5(a), except that in the case of a county taxpayer who is not a resident of a county that has imposed the county adjusted gross income tax, the term includes only adjusted gross income derived from his principal place of business or employment.

"Apartment complex" means real property consisting of at least five (5) units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more.

"Civil taxing unit" means any entity having the power to impose ad valorem property taxes except a school corporation. The term does not include a solid waste management district that is not entitled to a distribution under section 1.3 of this chapter. However, in the case of a consolidated city, the term "civil taxing unit" includes the consolidated city and all special taxing districts, all special service districts, and all entities whose budgets and property tax levies are subject to review under IC 36-3-6-9.

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"County council" includes the city-county council of a consolidated city.

"County taxpayer" as it relates to a county for a year means any individual:

(1) who resides in that county on the date specified in section 16 of this chapter; or

(2) who maintains his principal place of business or employment in that county on the date specified in section 16 of this chapter and who does not on that same date reside in another county in which the county adjusted gross income tax, the county option income tax, or the county economic development income tax is in effect.

"Department" refers to the Indiana department of state revenue.

"Homestead" has the meaning set forth in IC 6-1.1-20.9-1.

"Nonresident county taxpayer" as it relates to a county for a year means any county taxpayer for that county for that year who is not a resident county taxpayer of that county for that year.

"Qualified residential property" refers to any of the following:

(1) An apartment complex.

(2) A homestead.

(3) Residential rental property.

"Resident county taxpayer" as it relates to a county for a year means any county taxpayer who resides in that county on the date specified in section 16 of this chapter.

"Residential rental property" means real property consisting of not more than four (4) units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more.

"School corporation" means any public school corporation established under Indiana law.

SECTION 6. IC 6-3.5-1.1-26, AS ADDED BY P.L.224-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 26. (a) A county council may impose a tax rate under this section to provide property tax relief to political subdivisions in the county. A county council is not required to impose any other tax before imposing a tax rate under this section.

(b) A tax rate under this section may be imposed in increments of five hundredths of one percent (0.05%) determined by the county council. A tax rate under this section may not exceed one percent (1%).

(c) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

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(d) If a county council adopts an ordinance to impose or increase a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(e) A tax rate under this section may be imposed, increased, decreased, or rescinded by a county council at the same time and in the same manner that the county council may impose or increase a tax rate under section 24 of this chapter.

(f) Tax revenue attributable to a tax rate under this section may be used for any combination of the following purposes, as specified by ordinance of the county council:

(1) The tax revenue may be used to provide local property tax replacement credits at a uniform rate to all taxpayers in the county. Any tax revenue that is attributable to the tax rate under this section and that is used to provide local property tax replacement credits under this subdivision shall be distributed to civil taxing units and school corporations in the county in the same manner that certified distributions are allocated as property tax replacement credits under section 12 of this chapter. The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive under this subdivision. The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits the civil taxing unit or school corporation is entitled to receive under this subdivision during that calendar year.

(2) The tax revenue may be used to uniformly increase the homestead credit percentage in the county. The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state homestead credit under IC 6-1.1-20.9. The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1. The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(3) The tax revenue may be used to provide local property tax replacement credits at a uniform rate for all qualified residential

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property ~~(as defined in IC 6-1.1-20.6-4)~~ in the county. Any tax revenue that is attributable to the tax rate under this section and that is used to provide local property tax replacement credits under this subdivision shall be distributed to civil taxing units and school corporations in the county in the same manner that certified distributions are allocated as property tax replacement credits under section 12 of this chapter. The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive under this subdivision. The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits the civil taxing unit or school corporation is entitled to receive under this subdivision during that calendar year.

(g) The tax rate under this section and the tax revenue attributable to the tax rate under this section shall not be considered for purposes of computing:

- (1) the maximum income tax rate that may be imposed in a county under section 2 of this chapter or any other provision of this chapter;
- (2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b); or
- (3) the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5).

(h) Tax revenue under this section shall be treated as a part of the receiving civil taxing unit's or school corporation's property tax levy for that year for purposes of fixing the budget of the civil taxing unit or school corporation and for determining the distribution of taxes that are distributed on the basis of property tax levies.

(i) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

SECTION 7. IC 6-3.5-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. As used in this chapter:

"Adjusted gross income" has the same definition that the term is given in IC 6-3-1-3.5. However, in the case of a county taxpayer who is not treated as a resident county taxpayer of a county, the term includes only adjusted gross income derived from his principal place of business or employment.

"Apartment complex" means real property consisting of at least

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five (5) units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more.

"Civil taxing unit" means any entity, except a school corporation, that has the power to impose ad valorem property taxes. The term does not include a solid waste management district that is not entitled to a distribution under section 1.3 of this chapter. However, in the case of a county in which a consolidated city is located, the consolidated city, the county, all special taxing districts, special service districts, included towns (as defined in IC 36-3-1-7), and all other political subdivisions except townships, excluded cities (as defined in IC 36-3-1-7), and school corporations shall be deemed to comprise one (1) civil taxing unit whose fiscal body is the fiscal body of the consolidated city.

"County income tax council" means a council established by section 2 of this chapter.

"County taxpayer", as it relates to a particular county, means any individual:

(1) who resides in that county on the date specified in section 20 of this chapter; or

(2) who maintains his principal place of business or employment in that county on the date specified in section 20 of this chapter and who does not reside on that same date in another county in which the county option income tax, the county adjusted income tax, or the county economic development income tax is in effect.

"Department" refers to the Indiana department of state revenue.

"Fiscal body" has the same definition that the term is given in IC 36-1-2-6.

"Homestead" has the meaning set forth in IC 6-1.1-20.9-1.

"Qualified residential property" refers to any of the following:

(1) An apartment complex.

(2) A homestead.

(3) Residential rental property.

"Resident county taxpayer", as it relates to a particular county, means any county taxpayer who resides in that county on the date specified in section 20 of this chapter.

"Residential rental property" means real property consisting of not more than four (4) units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more.

"School corporation" has the same definition that the term is given in IC 6-1.1-1-16.

SECTION 8. IC 6-3.5-6-32, AS ADDED BY P.L.224-2007, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2009]: Sec. 32. (a) A county income tax council may impose a tax rate under this section to provide property tax relief to political subdivisions in the county. A county income tax council is not required to impose any other tax before imposing a tax rate under this section.

(b) A tax rate under this section may be imposed in increments of five hundredths of one percent (0.05%) determined by the county income tax council. A tax rate under this section may not exceed one percent (1%).

(c) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(d) If a county income tax council adopts an ordinance to impose or increase a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(e) A tax rate under this section may be imposed, increased, decreased, or rescinded at the same time and in the same manner that the county income tax council may impose or increase a tax rate under section 30 of this chapter.

(f) Tax revenue attributable to a tax rate under this section may be used for any combination of the following purposes, as specified by ordinance of the county income tax council:

(1) The tax revenue may be used to provide local property tax replacement credits at a uniform rate to civil taxing units and school corporations in the county. The amount of property tax replacement credits that each civil taxing unit and school corporation in a county is entitled to receive under this subdivision during a calendar year equals the product of:

(A) the tax revenue attributable to a tax rate under this section that is dedicated to property tax replacement credits under this subdivision; multiplied by

(B) the following fraction:

(i) The numerator of the fraction equals the total property taxes being collected in the county by the civil taxing unit or school corporation during the calendar year of the distribution.

(ii) The denominator of the fraction equals the sum of the total property taxes being collected in the county by all civil taxing units and school corporations of the county during the calendar year of the distribution.

The department of local government finance shall provide each

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1 county auditor with the amount of property tax replacement
 2 credits that each civil taxing unit and school corporation in the
 3 auditor's county is entitled to receive under this subdivision. The
 4 county auditor shall then certify to each civil taxing unit and
 5 school corporation the amount of property tax replacement credits
 6 the civil taxing unit or school corporation is entitled to receive
 7 under this subdivision during that calendar year. The county
 8 auditor shall also certify these distributions to the county
 9 treasurer. Except as provided in subsection (g), the local property
 10 tax replacement credits shall be treated for all purposes as
 11 property tax levies.

12 (2) The tax revenue may be used to uniformly increase the
 13 homestead credit percentage in the county. The additional
 14 homestead credits shall be treated for all purposes as property tax
 15 levies. The additional homestead credits do not reduce the basis
 16 for determining the state homestead credit under IC 6-1.1-20.9.
 17 The additional homestead credits shall be applied to the net
 18 property taxes due on the homestead after the application of all
 19 other assessed value deductions or property tax deductions and
 20 credits that apply to the amount owed under IC 6-1.1. The
 21 department of local government finance shall determine the
 22 additional homestead credit percentage for a particular year based
 23 on the amount of tax revenue that will be used under this
 24 subdivision to provide additional homestead credits in that year.

25 (3) The tax revenue may be used to provide local property tax
 26 replacement credits at a uniform rate for all qualified residential
 27 property (as defined in IC 6-1.1-20.6-4) in the county. The
 28 amount of property tax replacement credits that each civil taxing
 29 unit and school corporation in a county is entitled to receive under
 30 this subdivision during a calendar year equals the product of:

31 (A) the tax revenue attributable to a tax rate under this section
 32 that is dedicated to property tax replacement credits under this
 33 subdivision; multiplied by

34 (B) the following fraction:

35 (i) The numerator of the fraction equals the total property
 36 taxes being collected in the county by the civil taxing unit or
 37 school corporation during the calendar year of the
 38 distribution.

39 (ii) The denominator of the fraction equals the sum of the
 40 total property taxes being collected in the county by all civil
 41 taxing units and school corporations of the county during the
 42 calendar year of the distribution.

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The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive under this subdivision. The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits the civil taxing unit or school corporation is entitled to receive under this subdivision during that calendar year. The county auditor shall also certify these distributions to the county treasurer. Except as provided in subsection (g), the local property tax replacement credits shall be treated for all purposes as property tax levies.

(g) The tax rate under this section shall not be considered for purposes of computing:

- (1) the maximum income tax rate that may be imposed in a county under section 8 or 9 of this chapter or any other provision of this chapter; or
- (2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b).

(h) Tax revenue under this section shall be treated as a part of the receiving civil taxing unit's or school corporation's property tax levy for that year for purposes of fixing the budget of the civil taxing unit or school corporation and for determining the distribution of taxes that are distributed on the basis of property tax levies.

(i) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(j) Notwithstanding any other provision, in Lake County the county council (and not the county income tax council) is the entity authorized to take actions concerning the tax rate under this section.

SECTION 9. IC 35-41-1-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 3.1. "Apartment complex" means real property consisting of at least five (5) units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more.**

SECTION 10. IC 35-41-1-10.5, AS AMENDED BY P.L.26-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 10.5. "Family housing complex" means a building or series of buildings:**

- (1) that contains at least twelve (12) dwelling units:
 - (A) where children are domiciled or are likely to be domiciled;

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1 and
2 (B) that are owned by a governmental unit or political
3 subdivision;
4 (2) that is operated as a hotel or motel (as described in
5 IC 22-11-18-1);
6 (3) that is operated as an apartment complex; ~~(as defined in~~
7 ~~IC 6-1.1-20.6-1)~~; or
8 (4) that contains subsidized housing.
9 SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE
10 JANUARY 1, 2009]: IC 6-1.1-20.6-1; IC 6-1.1-20.6-5; IC 6-1.1-20.6-6;
11 IC 6-1.1-20.6-6.5.

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